

United States District Court
District of Minnesota
Civil No. 19-2739(DSD/DTS)

Stephen George Spartz,

Plaintiff,

v.

ORDER

Larry TeBrake, Previous CEO of SPRTC
(Saint Peter Regional Treatment Center),
et al.,

Defendants.

This matter is before the court upon the objections by pro se plaintiff Stephen George Spartz to the January 9, 2020, report and recommendation of Magistrate Judge David T. Schultz (R&R). The magistrate judge recommends that the court dismiss the case. Spartz timely submitted objections to the R&R, but those objections are not directly responsive to the R&R and instead simply restate certain facts he believes support his claim. Spartz further argues that the magistrate judge erred in issuing the R&R before certain issues Spartz has pending in Minnesota state court are resolved. The court disagrees.

Spartz petitioned the state of Minnesota for the appointment of an emergency conservator and counsel. Spartz appears to believe that once counsel is appointed by the State, that counsel will then be able to represent him in this federal proceeding. Spartz contends that the magistrate judge erred in recommending dismissal

of this action before the State made its determination regarding the conservatorship and appointment of counsel issues.

Spartz is mistaken in his belief that any state-appointed counsel would then represent him in federal court. The Minnesota statutes under which Spartz has applied for the appointment of an emergency conservator and counsel apply to proceedings in Minnesota state courts. See generally Minn. Stat. Ch. 524; id. § 563.01. There is no constitutional or statutory right to the appointment of counsel in federal civil cases. See Ward v. Smith, 721 F.3d 940, 942 (8th Cir. 2013). As such, the magistrate judge did not err in issuing the R&R before Spartz's petitions in state court concluded.

With regard to the magistrate judge's determination on the merits of Spartz's claims, the court reviews the R&R de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). After a thorough review of the file and record, the court finds that the R&R is well-reasoned and correct.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The objections to the R&R [ECF No. 4] are overruled;
2. The R&R [ECF No. 3] is adopted in its entirety;
3. The application to proceed in forma pauperis is denied;

and

4. The action is dismissed without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 4, 2020

s/David S. Doty
David S. Doty, Judge
United States District Court